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Attorneys for Plaintiff
PNY Technologies, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PNY TECHNOLOGIES, INC.,

Plaintiff,

v.

SD-3C, LLC,

Defendant.

C.A. No. _____

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

COMPLAINT

For its Complaint against Defendant SD-3C, LLC (“SD-3C”) Plaintiff PNY Technologies, Inc. (“PNY”) alleges as follows:

THE PARTIES

1. Plaintiff PNY is a corporation duly organized and existing under the laws of the State of Delaware, having its principle place of business at 100 Jefferson Road, Parsippany, New Jersey 07054.

2. On information and belief, Defendant SD-3C is a limited liability company

organized and existing under the laws of the Delaware, with its principal place of business located at c/o Miller, Kaplan, Arase and Co., LLP, 180 Montgomery Street, Suite 1840, San Francisco, California 94104.

JURISDICTION AND VENUE

3. This is an action for declaratory judgment pursuant to the Federal Declaratory Judgment Act, together with such further and other relief that may be necessary or proper. The basis for declaratory judgment is a controversy between PNY and SD-3C concerning SD-3C's purported intellectual rights and PNY's products.

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action involves claims arising under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*

5. On its website, which includes <http://www.sd-3c.com> and all associated subpages (hereafter, the "SD-3C website"), SD-3C states that it "licenses intellectual property rights related to SD Memory Cards and Host/Ancillary products."

6. On information and belief, SD-3C is in the business of licensing its purported intellectual property rights to manufacturers and sellers of "SD Memory Cards and Host/Ancillary products," whose products are manufactured, used, and/or sold throughout the United States, including within this judicial district.

7. By letter dated December 12, 2013 and addressed to PNY Technologies, Inc., 100 Jefferson Road, Parsippany, NJ 07054-0218, counsel for SD-3C indicated that it 'believe[s] that [PNY's] StorEDGE devices directly infringe upon SD-3C's design patents and proprietary specifications.'

8. SD-3C has actively attempted to enforce alleged rights against PNY in relation to

PNY's sale of products throughout the United States, including within this judicial district.

9. SD-3C has taken and will take actions that will cause injury to PNY, whose principal place of business is located within this judicial district and who employs hundreds of workers in this judicial district.

10. On information and belief, by virtue of, among other things, SD-3C's continuous and systematic contacts with New Jersey, including but not limited to the contacts described above, and SD-3C's purposeful direction of activities toward PNY in New Jersey, this Court has personal jurisdiction over SD-3C. These activities satisfy due process and confer personal jurisdiction over SD-3C.

11. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c).

THE CONTROVERSY

U.S. Design Patent No. D445,111 S

12. U.S. Design Patent No. D445,111 S (hereafter, "the '111 patent"), entitled "IC Memory Card," issued on July 17, 2001.

13. A copy of the '111 patent is attached as **Exhibit A**.

14. On information and belief, SD-3C is the owner of the '111 patent.

15. Alternatively, on information and belief, SD-3C is the exclusive licensee of the '111 patent. Additionally, on information and belief, SD-3C's status as the exclusive licensee of the '111 patent confers upon SD-3C the sole right to enforce the '111 patent.

U.S. Design Patent No. D467,586 S

16. U.S. Design Patent No. D467,586 S (hereafter, "the '586 patent"), entitled "IC Memory Card," issued on December 24, 2002.

17. A copy of the '586 patent is attached as **Exhibit B**.

18. On information and belief, SD-3C is the owner of the ‘586 patent.
19. Alternatively, on information and belief, SD-3C is the exclusive licensee of the ‘586 patent. Additionally, on information and belief, SD-3C’s status as the exclusive licensee of the ‘586 patent confers upon SD-3C the sole right to enforce the ‘586 patent.

SD-3C’s Licensing Activities

20. The SD-3C website states that “SD-3C, LLC licenses intellectual property rights related to SD Memory Cards and Host/Ancillary products.”

21. The SD-3C website indicates that SD-3C is willing to enter into a licensing agreement -- known as the SD Memory Card License Agreement or “CLA” -- with other parties.

22. The SD-3C website displays a “list of design patents covered by the CLA.”

23. The ‘111 patent and the ‘586 patent are among the design patents that the SD-3C website indicates are “covered by the CLA.”

24. The SD-3C website also identifies licensees to the CLA in a table, entitled “CLA - Current Licensees.”

PNY’s StorEDGE™ Products

25. PNY is engaged in the business of selling memory products, including memory cards that it sells under the StorEDGE™ trademark (hereafter, “StorEDGE™ Products”).

26. PNY’s StorEDGE™ Products are manufactured for PNY by a third party (hereafter, the “Licensed Manufacturer”).

27. SD-3C has entered into a CLA with the Licensed Manufacturer.

28. The Licensed Manufacturer is listed as a current licensee under the CLA on the SD-3C website.

29. SD-3C has alleged that PNY’s StorEDGE™ Products fall within the scope of the

‘111 patent.

30. On information and belief, under the CLA, the Licensed Manufacturer has the right to make, use, offer to sell, expose for sale, or sell within the United States or import into the United States, products that fall within the scope of the ‘111 patent.

31. SD-3C has alleged that PNY’s StorEDGE™ Products fall within the scope of the ‘586 patent.

32. On information and belief, under the CLA, the Licensed Manufacturer has the right to make, use, offer to sell, expose for sale, or sell within the United States or import into the United States, products that fall within the scope of the ‘586 patent.

33. On information and belief, the Licensed Manufacturer has paid all necessary royalty and administrative fees required under the CLA for PNY’s StorEDGE™ Products.

SD-3C’s Infringement Allegations

34. Before proceeding with the manufacture of PNY’s StorEDGE™ Products, the Licensed Manufacturer inquired with SD-3C as to whether the StorEDGE™ Products were acceptable to SD-3C. In July 2013, Michael Quackenbush – the SD-3C administrator – responded by informing the Licensed Manufacturer that the sale of PNY’s StorEDGE™ Products was acceptable to SD-3C.

35. However, in a letter dated December 12, 2013, counsel for SD-3C wrote to PNY regarding SD-3C’s supposed intellectual property rights (hereafter, the “Cease and Desist Letter”).

36. A copy of the Cease and Desist Letter is attached as **Exhibit C**.

37. The Cease and Desist Letter indicated that it was written with regard to alleged “Intellectual Property Infringement” and the “PNY StorEDGE™ Card.”

38. In the Cease and Desist Letter, counsel for SD-3C stated that “[b]ased upon our review of the StorEDGE product, SD-3C’s design patents, proprietary specifications and the marketing statements on PNY’s website, we believe that the StorEDGE devices directly infringe upon SD-3C’s design patents and proprietary specifications.”

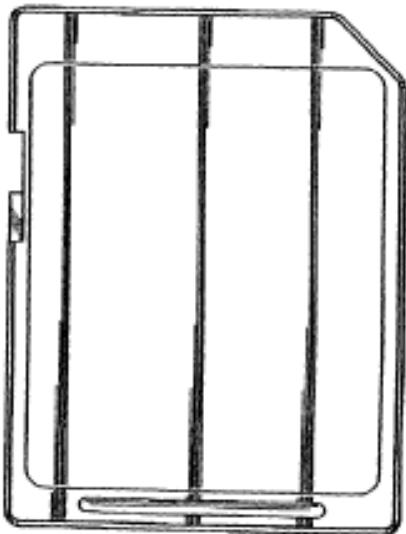
39. The ‘111 patent and the ‘586 patent are the only patents specifically referenced in the Cease and Desist Letter.

40. The Cease and Desist Letter does not specifically identify the “proprietary specifications” referenced therein.

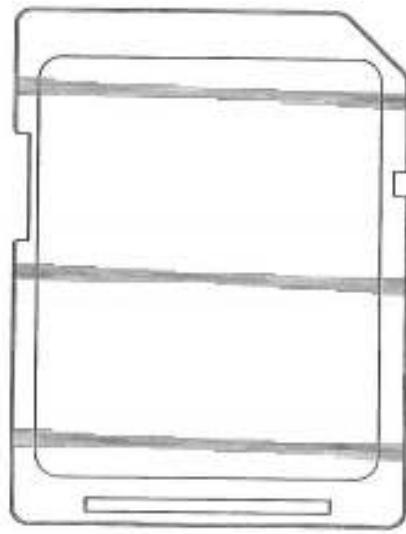
41. The following is an image of a StorEDGE™ Product (left) and an SD® card (right). The only products specifically accused of infringement in the Cease and Desist Letter are the StorEDGE™ Products. SD-3C has not accused the SD® card of infringement.



42. The following are images from the '111 patent and the '586 patent that depict the design claimed by each patent.



'111 patent at Fig. 2



'586 patent at Fig. 2

43. In the Cease and Desist Letter, counsel for SD-3C demanded that PNY “cease and desist” from “marketing and commercial distribution” of PNY’s StorEDGE™ Products.

44. In the Cease and Desist Letter, counsel for SD-3C further requested that PNY “withdraw all content, materials, and advertisements that reference” PNY’s StorEDGE™ Products.

45. Accordingly, SD-3C has alleged that PNY has infringed and/or infringes the claims of the '111 patent and the '586 patent.

46. SD-3C’s allegation creates an actual controversy between SD-3C and PNY concerning the alleged infringement of the '111 patent and the '586 patent.

47. This Court may declare the rights and legal relations of both SD-3C and PNY under 28 U.S.C. §§ 2201 and 2202 because PNY’s claims present an actual controversy within the Court’s jurisdiction regarding the '111 patent, the '586 patent and PNY’s StorEDGE™ Products.

COUNT I

(Declaratory Judgment of Non-infringement of the '111 patent)

48. PNY repeats and realleges the allegations set forth in Paragraphs 1 to 47 of this Complaint as if fully set forth herein.

49. This action concerns, among other things, the '111 patent and PNY's StorEDGE™ Products.

50. SD-3C has alleged that PNY's StorEDGE™ Products infringe upon the claims of the '111 patent.

51. PNY's StorEDGE™ Products do not infringe upon any valid and enforceable claim of the '111 patent.

52. Furthermore, PNY's StorEDGE™ Products are manufactured by a third party -- the Licensed Manufacturer -- who has entered into a CLA with SD-3C.

53. On information and belief, the PNY StorEDGE™ Products are licensed because the Licensed Manufacturer is authorized under the CLA to practice the '111 patent and sell such products to PNY. Therefore, SD-3C cannot assert any purported patent rights regarding the '111 patent against PNY concerning such licensed products.

54. PNY has not directly and/or indirectly infringed, and does not directly and/or indirectly infringe, either literally or under the Doctrine of Equivalents, any valid and enforceable claim of the '111 patent, and PNY is not liable for infringement of any valid and enforceable claim of the '111 patent.

55. Nonetheless, SD-3C insists that PNY has infringed and infringes the claims of the '111 patent because PNY markets its StorEDGE™ Products.

56. Accordingly, there is an actual, substantial, justiciable controversy within the

scope of 28 U.S.C. §§ 2201 and 2202 between PNY and SD-3C concerning the alleged infringement of the '111 patent.

57. The controversy between PNY and SD-3C is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment from this Court.

58. PNY is entitled to a declaratory judgment (a) that by making, manufacturing, using, selling, offering or exposing for sale, and/or importing its StorEDGE™ Products, PNY has not directly and/or indirectly infringed and does not directly and/or indirectly infringe, either literally or under the Doctrine of Equivalents, any valid and enforceable claim of the '111 patent and (b) that PNY is not liable for infringement of any valid and enforceable claim of the '111 patent due to the manufacture, sale, offer or exposure for sale, or importation of its StorEDGE™ Products.

COUNT II

(Declaratory Judgment of Non-infringement of the '586 patent)

59. PNY repeats and realleges the allegations set forth in Paragraphs 1 to 58 of this Complaint as if fully set forth herein.

60. This action concerns, among other things, the '586 patent and PNY's StorEDGE™ Products.

61. SD-3C has alleged that PNY's StorEDGE™ Products infringe upon the claims of the '586 patent.

62. PNY's StorEDGE™ Products do not infringe upon any valid and enforceable claim of the '586 patent.

63. Furthermore, PNY's StorEDGE™ Products are manufactured by a third party -- the Licensed Manufacturer -- who has entered into a CLA with SD-3C.

64. On information and belief, the PNY StorEDGE™ Products are licensed because the Licensed Manufacturer is authorized under the CLA to practice the ‘586 patent and sell such products to PNY. Therefore, SD-3C cannot assert any purported patent rights regarding the ‘586 patent against PNY concerning such licensed products.

65. PNY has not directly and/or indirectly infringed, and does not directly and/or indirectly infringe, either literally or under the Doctrine of Equivalents, any valid and enforceable claim of the ‘586 patent, and PNY is not liable for infringement of any valid and enforceable claim of the ‘586 patent.

66. Nonetheless, SD-3C insists that PNY has infringed and infringes the claims of the ‘586 patent because PNY markets its StorEDGE™ Products.

67. Accordingly, there is an actual, substantial, justiciable controversy within the scope of 28 U.S.C. §§ 2201 and 2202 between PNY and SD-3C concerning the alleged infringement of the ‘586 patent.

68. The controversy between PNY and SD-3C is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment from this Court.

69. PNY is entitled to a declaratory judgment (a) that by making, manufacturing, using, selling, offering or exposing for sale, and/or importing its StorEDGE™ Products, PNY has not directly and/or indirectly infringed and does not directly and/or indirectly infringe, either literally or under the Doctrine of Equivalents, any valid and enforceable claim of the ‘586 patent and (b) that PNY is not liable for infringement of any valid and enforceable claim of the ‘586 patent due to the manufacture, sale, offer or exposure for sale, or importation of its StorEDGE™ Products.

PRAYER FOR RELIEF

WHEREFORE, PNY respectfully requests that this Court enter judgment in its favor granting the following relief:

- A. Declaring that by making, manufacturing, using, selling, offering or exposing for sale, and/or importing its StorEDGE™ Products, PNY has not directly and/or indirectly infringed and does not directly and/or indirectly infringe, either literally or under the Doctrine of Equivalents, any valid and enforceable claim of the ‘111 patent;
- B. Declaring that PNY is not liable for infringement of any valid and enforceable claim of the ‘111 patent due to the manufacture, sale, offer or exposure for sale, or importation of its StorEDGE™ Products;
- C. Declaring that by making, manufacturing, using, selling, offering or exposing for sale, and/or importing its StorEDGE™ Products, PNY has not directly and/or indirectly infringed and does not directly and/or indirectly infringe, either literally or under the Doctrine of Equivalents, any valid and enforceable claim of the ‘586 patent;
- D. Declaring that PNY is not liable for infringement of any valid and enforceable claim of the ‘586 patent due to the manufacture, sale, offer or exposure for sale, or importation of its StorEDGE™ Products;
- E. Declaring this to be an exceptional case and awarding PNY attorneys’ fees under 35 U.S.C. § 285;
- F. Awarding PNY its costs and expenses in this action; and
- G. Awarding PNY all other such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

PNY hereby requests a trial by a jury on all issues so triable.

Dated: January 22, 2014

/s/Jonathan Short

Jonathan Short

Ira Gottlieb

Matthew Sklar

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PNY Technologies, Inc.*

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

Pursuant to Local Civil Rule 11.2, I hereby certify that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: January 22, 2014

/s/Jonathan Short

Jonathan Short

Ira Gottlieb

Matthew Sklar

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PNY Technologies, Inc.*

CERTIFICATION PURSUANT TO L. CIV. R. 201.1

Pursuant to Local Civil Rule 201.1, I hereby certify the above-captioned matter is not subject to compulsory arbitration in that, *inter alia*, the Plaintiff seeks non-monetary declaratory judgment relief and the amount in controversy is more than the \$150,000 threshold exclusive of interest and costs and any claim for punitive damages.

Dated: January 22, 2014

/s/Jonathan Short

Jonathan Short

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Matthew Sklar

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EXHIBIT A



US00D445111S

(12) **United States Design Patent** (10) **Patent No.:** US D445,111 S
Okamoto et al. (45) **Date of Patent:** ** Jul. 17, 2001

(54) **IC MEMORY CARD**

(75) Inventors: **Kosei Okamoto**, Tokyo; **Takashi Torii**, Osaka, both of (JP); **Yosi Pinto**, Veradim (IL); **Dan Auclair**, Mountain View, CA (US); **Yoram Cedar**, Cupertino, CA (US); **Bob Wallace**, Sunnyvale, CA (US)

(73) Assignees: **Kabushiki Kaisha Toshiba**, Kawasaki; **Matsushita Electric Industrial Co.**, Osaka, both of (JP); **SanDisk Corporation**, Sunnyvale, CA (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/119,088**

(22) Filed: **Feb. 23, 2000**

(30) **Foreign Application Priority Data**

Aug. 24, 1999 (JP) 11-22611

(51) LOC (7) CI. **14-02**

(52) U.S. CI. **D14/436**

(58) Field of Search D14/435-8, 478-80; 361/737, 736, 752, 686; 257/678-9; 40/124.01; 283/75-6, 901; 235/487-95, 441-3, 375; 174/52.1; 439/135, 140, 76.1

(56) **References Cited**

U.S. PATENT DOCUMENTS

- D. 267,714 * 1/1983 Tajima et al. .
- D. 311,391 10/1990 Ueshin et al. .
- D. 368,082 * 3/1996 Goto .
- D. 369,156 4/1996 Ohmori et al. .
- D. 369,157 4/1996 Ohmori et al. .
- D. 371,548 7/1996 Yamamoto et al. .
- D. 374,436 10/1996 Yamamoto et al. .
- D. 375,941 * 11/1996 Kerklaan .
- D. 377,344 1/1997 Yamamoto et al. .
- D. 405,441 * 2/1999 Saito et al. .
- D. 407,392 * 3/1999 Kleineidam .
- D. 410,913 * 6/1999 Saito et al. .
- D. 415,132 * 10/1999 Homma et al. .

D. 416,886 * 11/1999 Hirai et al. .
D. 417,212 * 11/1999 Oba .
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6,108,209 * 8/2000 Cox et al. .

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923611	4/1995 (JP) .
953684	5/1996 (JP) .
953684-1	6/1996 (JP) .
1038035	5/1999 (JP) .
DM/040547	6/1997 (XH) .

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San Disk, MultiMedia Card Product Manual, pp. 1, 2, 3 and 17, dated 1999.

SanDisk Memory Cards and Connectivity Solutions Brochure, dated Oct. 2000.

SanDisk Compact Flash™ and MultimediaCard Brochure, dated Oct. 2000.

SanDisk MultiMedia Card, Product/Applications Background Report, dated May 2000.

* cited by examiner

Primary Examiner—M. H. Tung

(74) Attorney, Agent, or Firm—Banner & Witcoff, Ltd.

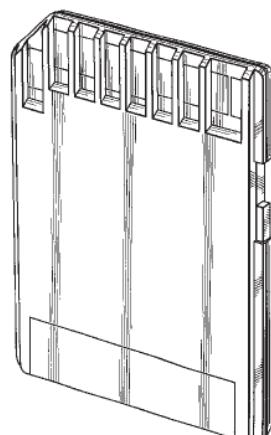
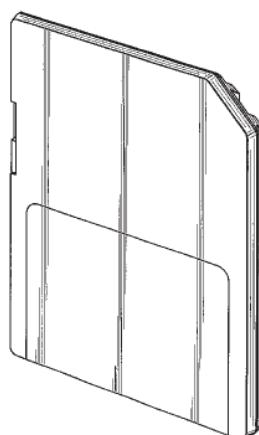
(57) **CLAIM**

The ornamental design for IC memory card, as shown and described.

DESCRIPTION

FIG. 1 is a top, front and right side perspective view of IC memory card showing our new design,
FIG. 2 is a front elevational view thereof,
FIG. 3 is a right side elevational view thereof,
FIG. 4 is a left side elevational view thereof,
FIG. 5 is a top plan view thereof,
FIG. 6 is a bottom plan view thereof,
FIG. 7 is a rear elevational view thereof; and,
FIG. 8 is a top, rear and right side perspective view thereof.

1 Claim, 3 Drawing Sheets



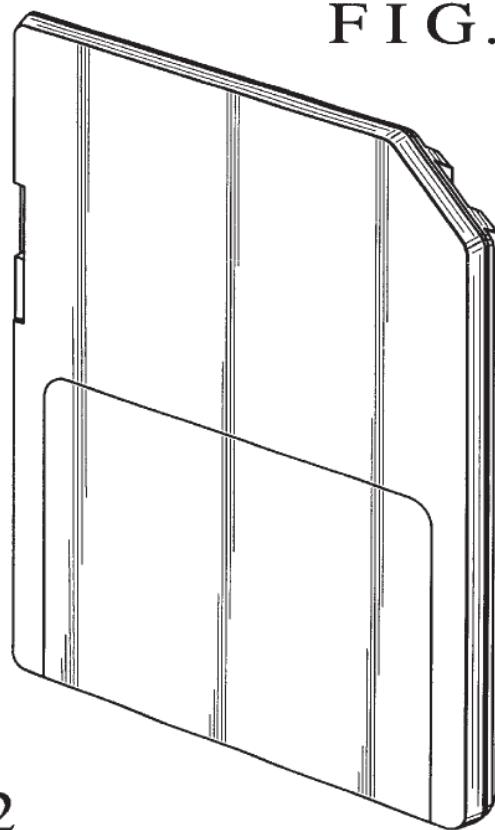
U.S. Patent

Jul. 17, 2001

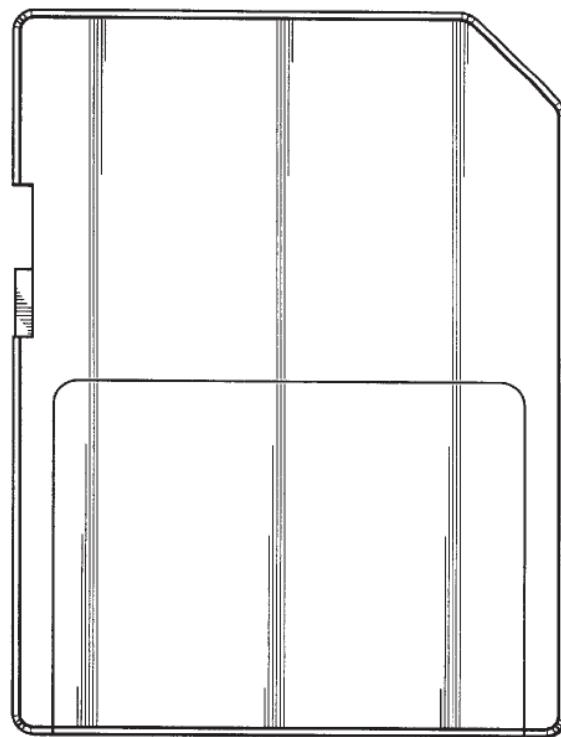
Sheet 1 of 3

US D445,111 S

F I G. 1



F I G. 2



U.S. Patent

Jul. 17, 2001

Sheet 2 of 3

US D445,111 S

F I G. 3



F I G. 4



F I G. 5



F I G. 6

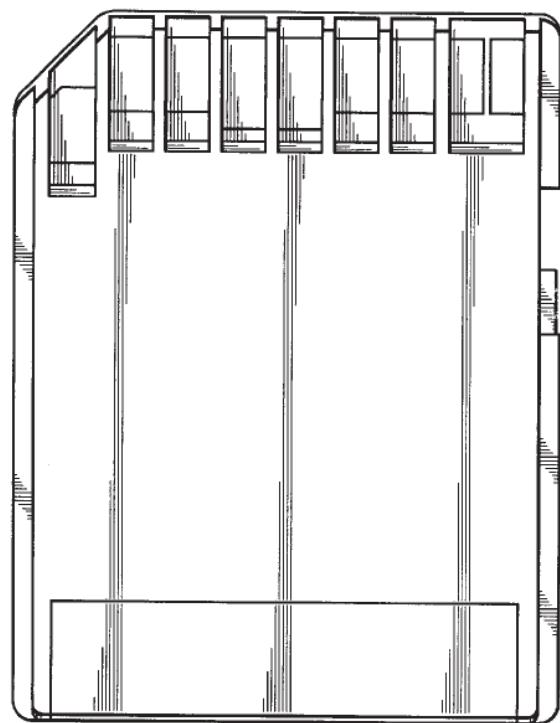


U.S. Patent

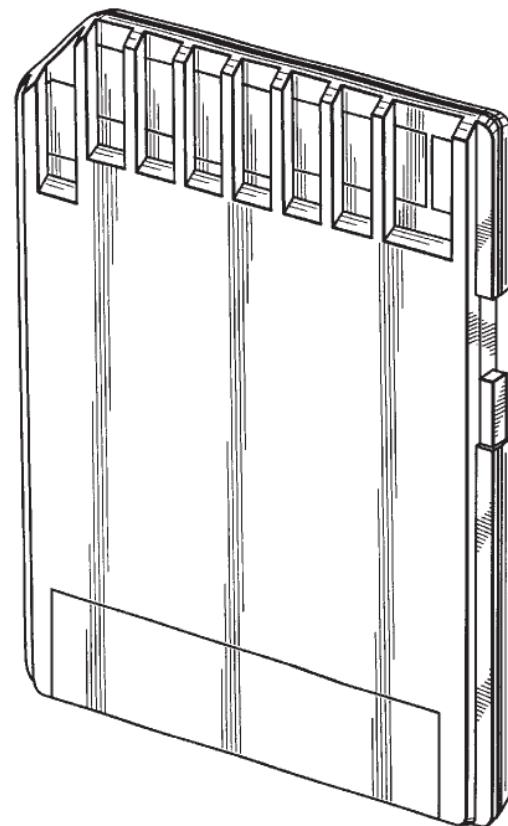
Jul. 17, 2001

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F I G. 7



F I G. 8

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : Des. 445,111 S
DATED : July 17, 2001
INVENTOR(S) : Kosei Okamoto et al.

Page 1 of 4

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page.

Item [30], **Foreign Application Priority Data**, change the Japanese Design Application "11-22611" to -- 11-22609 --.

Drawings.

Substitute the attached drawings for the drawings issued with the patent.

Signed and Sealed this

Fifth Day of November, 2002

Attest:



Attesting Officer

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

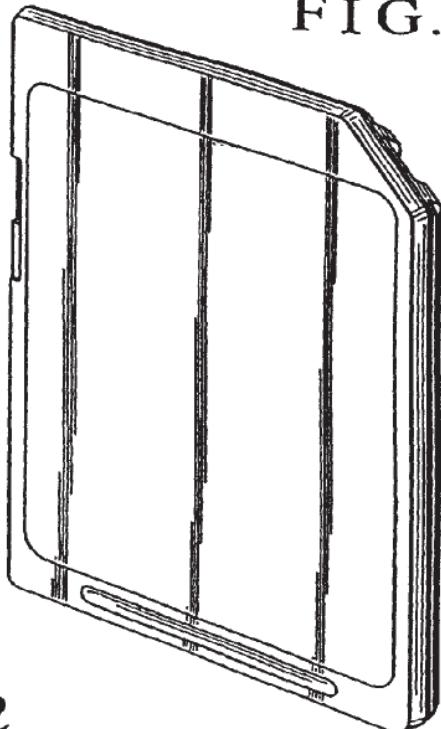
U.S. Patent

Jul. 17, 2001

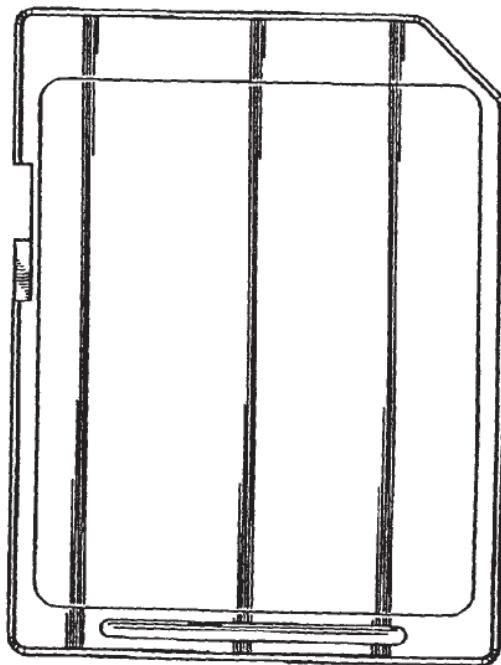
Sheet 1 of 3

Des 445,111 S

F I G. 1



F I G. 2



U.S. Patent

Jul. 17, 2001

Sheet 2 of 3

Des 445,111 S

F I G . 3



F I G . 4



F I G . 5



F I G . 6

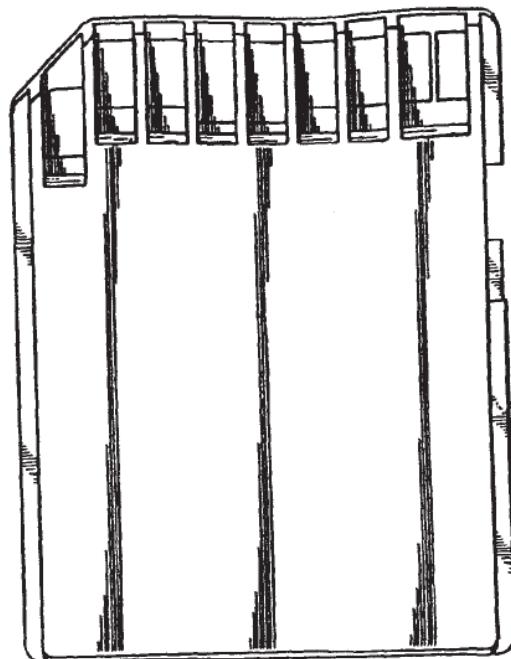


U.S. Patent

Jul. 17, 2001

Sheet 3 of 3

Des 445,111 S



F I G . 7

F I G . 8

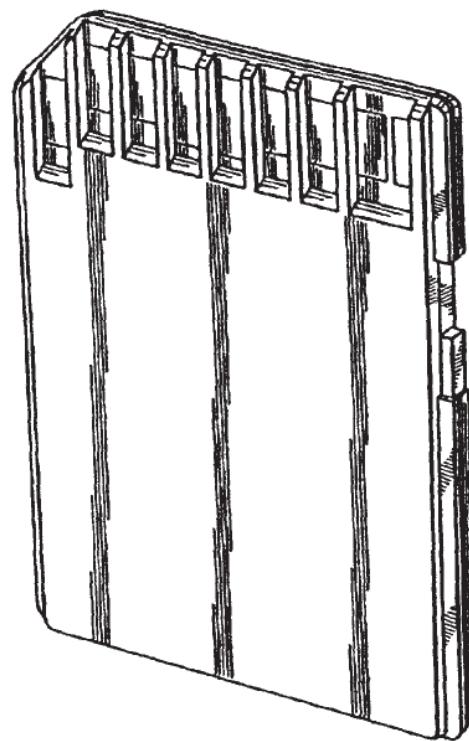


EXHIBIT B



US00D467586S

(12) United States Design Patent (10) Patent No.: **US D467,586 S**
Shimoda et al. (45) Date of Patent: ** Dec. 24, 2002

(54) IC MEMORY CARD

D405,441 S 2/1999 Saito et al.
 D407,392 S 3/1999 Kleineidam

(75) Inventors: **Kenji Shimoda**, Tokyo (JP); **Shinichi Hiroki**, Tokyo (JP); **Takashi Torii**, Kadoma (JP); **Yutaka Nakamura**, Kadoma (JP); **Bob Wallace**, Sunnyvale, CA (US); **Dan Auclair**, Sunnyvale, CA (US); **Yoram Cedar**, Sunnyvale, CA (US); **Yosi Pinto**, Tefen (IL)

(List continued on next page.)

(73) Assignees: **Kabushiki Kaisha Toshiba**, Tokyo (JP); **SanDisk Corporation**, Sunnyvale, CA (US); **Matsushita Electric Industrial Co.**, Osaka (JP)

JP	923611	4/1995
JP	953684	5/1996
JP	953684-1	6/1996
JP	1038035	5/1999
JP	1085563	9/2000
JP	1085565	9/2000
JP	1090240	11/2000
JP	1098466	1/2001
XH	DM/040 547	6/1997

(**) Term: **14 Years**

OTHER PUBLICATIONS

(21) Appl. No.: **29/148,139**

Panasonic Catalog, cover page, and pp. 3, 4, 13, 15 and 16, dated 1999.

(22) Filed: **Sep. 17, 2001**

San Disk, MultiMedia Card Product Manual, pp. 1, 2, 3 and 17, dated 1999.

(30) Foreign Application Priority Data

SanDisk Memory Cards and Connectivity Solutions Brochure, dated Oct. 2000.

Mar. 16, 2001 (JP) 2001-007030

SanDisk Compact Flash™ and MultimediaCard Brochure, dated Oct. 2000.

(51) LOC (7) Cl. **14-02**

SanDisk MultiMediaCard, Product/Applications Background Report, dated May 2000.

(52) U.S. Cl. **D14/436**

Primary Examiner—Kay H. Chin
(74) Attorney, Agent, or Firm—Banner & Witcoff, Ltd.

(58) Field of Search D14/435-438,

(57) CLAIM

D14/478, 480; D13/182; 174/16.3, 52.1,
 52.2, 52.4; 257/670, 676, 686, 688, 690,
 691, 692, 696, 703, 787; 437/217; 361/679,
 736, 737, 742, 752; 235/492, 441; 439/353,
 60, 633, 677

The ornamental design for IC memory card, as shown and described.

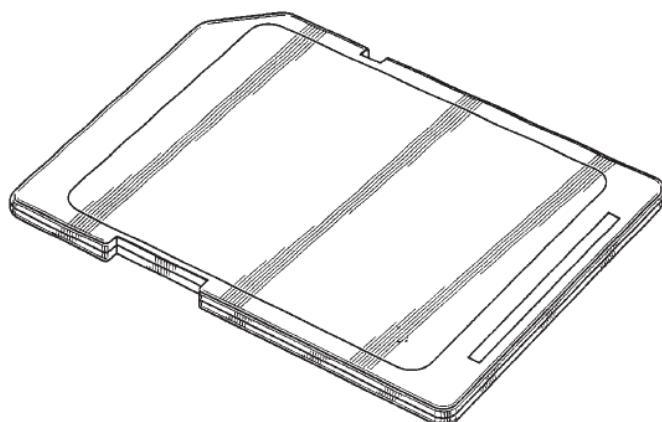
(56) References Cited

DESCRIPTION

U.S. PATENT DOCUMENTS

FIG. 1 is a top, front and right side perspective view of IC memory card showing our new design,
 FIG. 2 is a front elevational view thereof,
 FIG. 3 is a rear elevational view thereof,
 FIG. 4 is a left side elevational view thereof,
 FIG. 5 is a right side elevational view thereof,
 FIG. 6 is a top plan view thereof; and,
 FIG. 7 is a bottom plan view thereof.

1 Claim, 3 Drawing Sheets



US D467,586 S

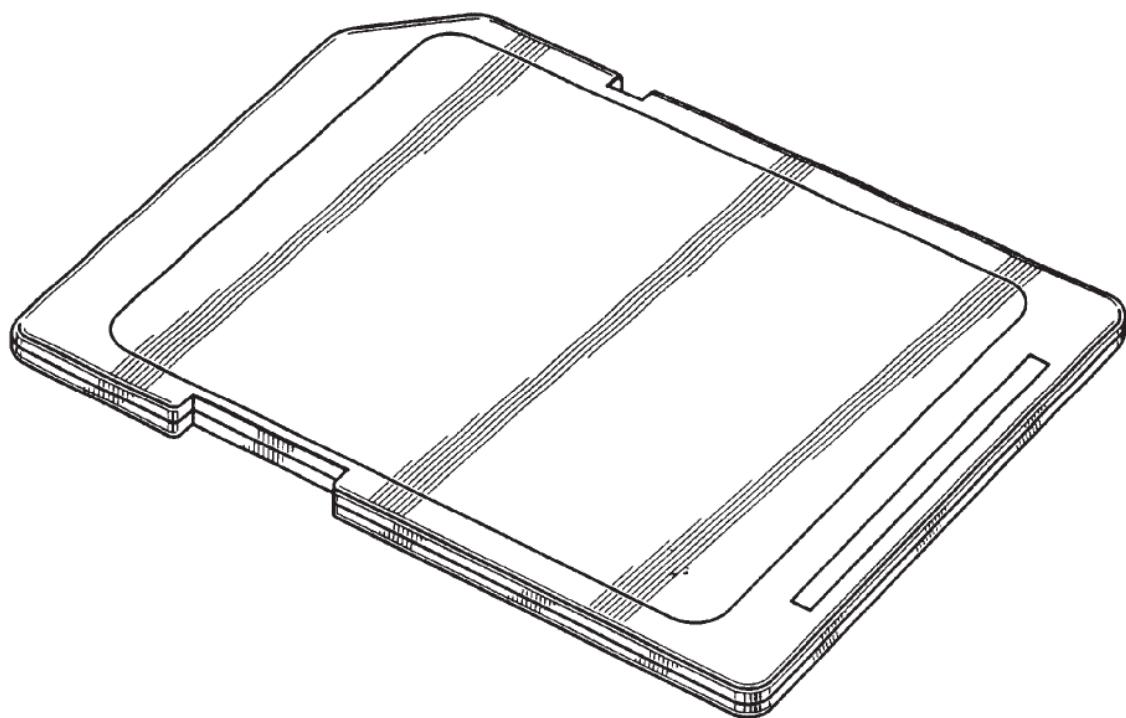
Page 2

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F I G. 1



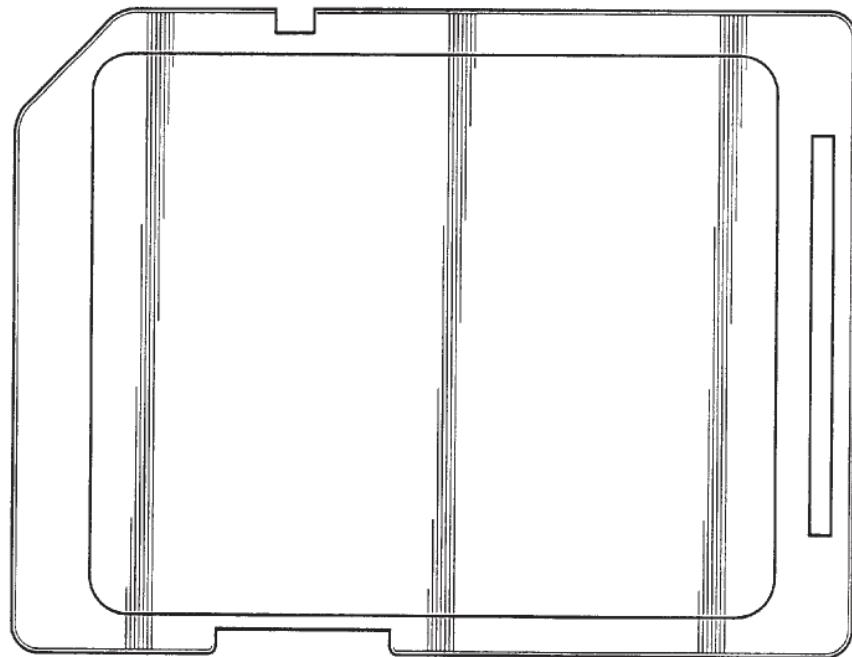
U.S. Patent

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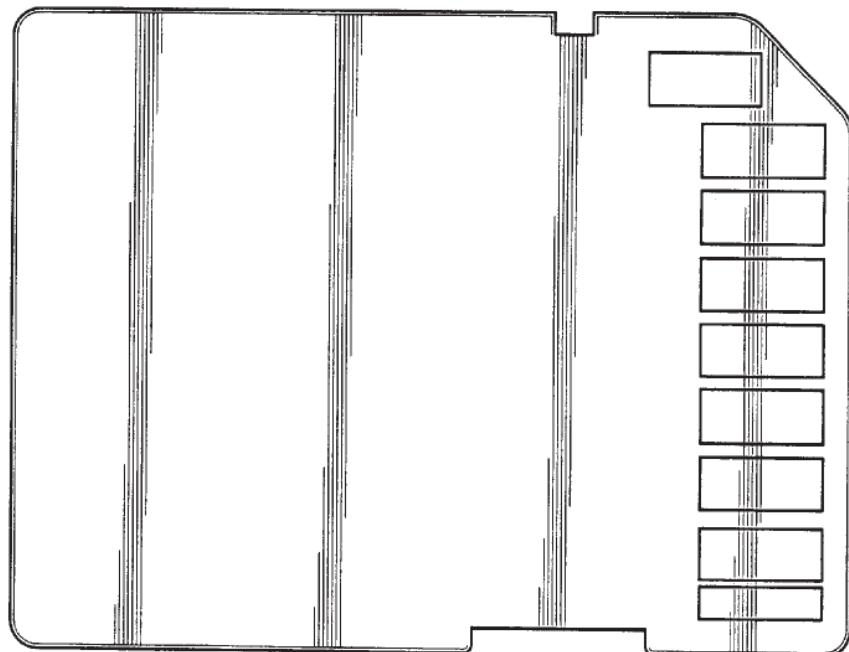
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F I G. 2



F I G. 3



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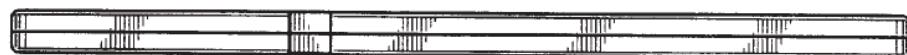
F I G. 4



F I G. 5



F I G. 6



F I G. 7



EXHIBIT C



Arent Fox LLP / Attorneys at Law
Los Angeles, CA / New York, NY / San Francisco, CA / Washington, DC
www.arentfox.com

December 12, 2013

**BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Gadi Cohen
President and Chief Executive Officer
PNY Technologies, Inc.
100 Jefferson Rd
Parsippany, NJ 07054-0218

Pamela M. Deese

Partner
202.828.3431 DIRECT
202.857.6395 FAX
pamela.deese@arentfox.com

Re: Intellectual Property Infringement - PNY StorEDGE™ Card

Dear Mr. Cohen:

I am writing to you on behalf of our client SD-3C, LLC (“SD-3C”) with respect to certain intellectual property matters. SD-3C holds several design patents for flash memory cards, including US D467,586 S and US D445,111 S (“SD Design Patents”), copies of which are enclosed for your reference. In addition, SD-3C licenses the proprietary specifications for the production and use of SD Memory Cards, which specifications embody trade secrets, know-how, technical information and copyrights.

It has come to SD-3C’s attention that your company, PNY Technologies, Inc., is marketing a flash memory card known as the StorEDGE™ Flash Memory Expansion Module (“StorEDGE”). PNY’s website explains that StorEDGE “[p]lugs in to your MacBook’s SDXC slot and stays in: a semi-permanent storage solution.” Trade press articles that PNY links directly to its website describe that “PNY’s StorEDGE flash memory expansion modules are basically slightly shorter SD cards that sit flush to the edge of your MacBook when inserted in its SD slot,” and that “PNY now makes a sawed-off SD card.” See <http://gizmodo.com/leave-in-compact-sd-cards-boost-your-macbooks-storage-1183912898> and <http://www.cultofmac.com/242011/pny-storedge-a-sawn-off-128gb-sd-card-for-your-macbooks-sd-slot/#20UDDiM4XCB0sRgM.99>.

Based upon our review of the StorEDGE product, SD-3C’s design patents, proprietary specifications and the marketing statements on PNY’s website, we believe that the StorEDGE devices directly infringe upon SD-3C’s design patents and proprietary specifications. An ordinary observer would see the two designs as substantially similar. Indeed, PNY makes and encourages such comparisons to SD cards, with the trade press articles cited above describing StorEDGE as simply “a shorter SD card” or “a sawed-off SD card.”

AFDOCS/10592747.1

Mr. Gadi Cohen
PNY Technologies, Inc.
December 12, 2013
Page 2

Arent Fox

Accordingly, we request that your company cease and desist from further marketing and commercial distribution of the infringing StorEDGE cards. We further request that your company withdraw all content, materials, and advertisements that reference StorEDGE.

We trust that you will understand SD-3C's interest in protecting its valuable intellectual property. Although our hope is to resolve this matter amicably without resorting to formal proceedings, this letter should not in any way be construed as limiting any rights or remedies available to SD-3C, all of which are hereby expressly reserved.

We look forward to receiving your written response to this letter within ten (10) business days. Should you have any questions or wish to discuss this matter, please do not hesitate to contact the undersigned.

Sincerely,



Pamela M. Deese

Enclosures

cc: Richard J. Holleman
President, SD-3C, LLC

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U.S. PATENT DOCUMENTS

D410,913 S	6/1999	Saito et al.	6,108,209 A	8/2000	Cox et al.
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D416,886 S		11/1999	Hirai et al.	D14/436	D445,111 S * 7/2001 Okamoto et al.
D417,212 S		11/1999	Oba	D14/436	D446,525 S * 8/2001 Okamoto et al.
6,097,605 A		8/2000	Klatt et al.		

* cited by examiner

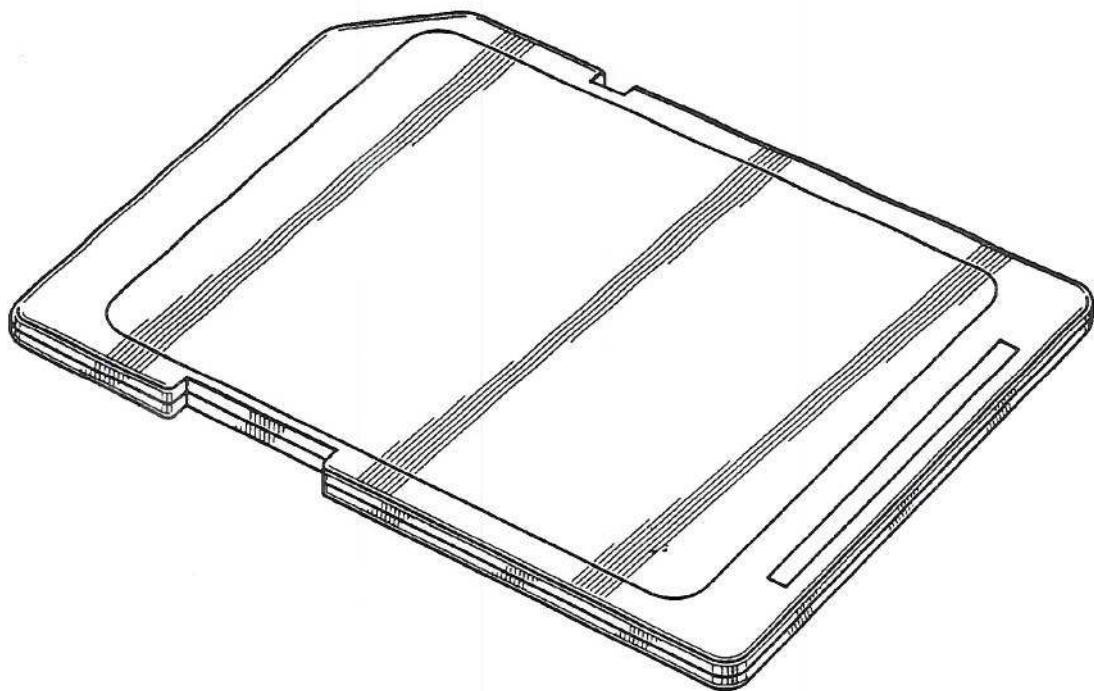
U.S. Patent

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F I G. 1



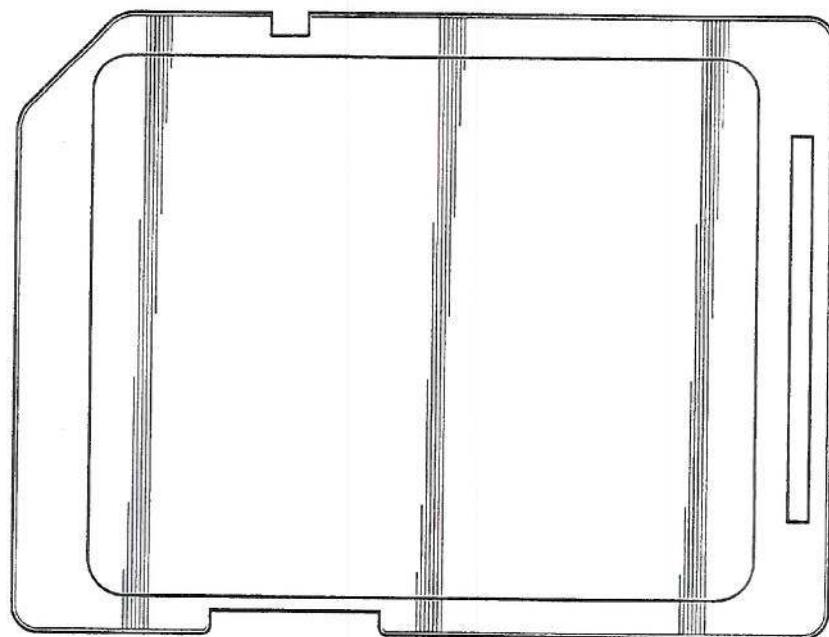
U.S. Patent

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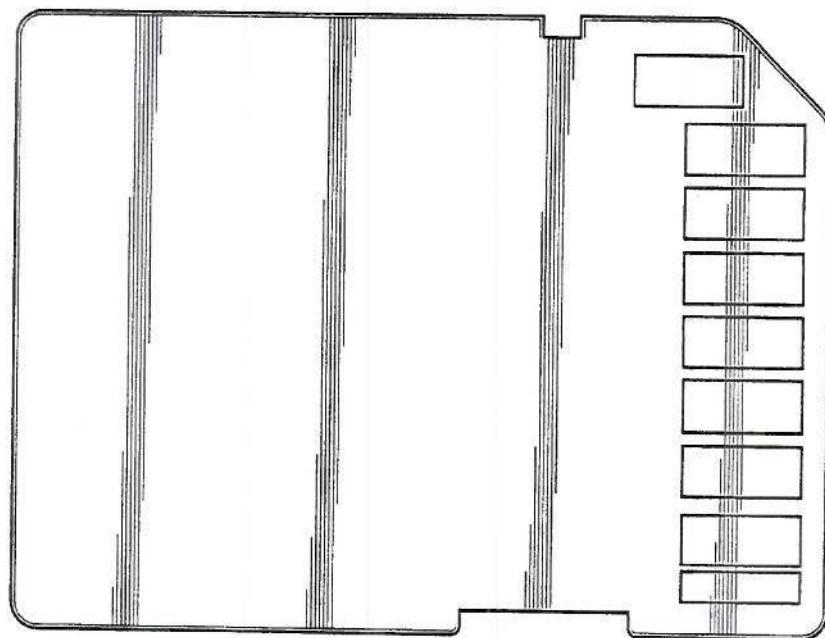
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F I G. 2



F I G. 3



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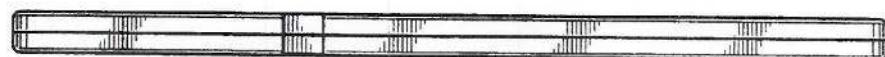
F I G. 4



F I G. 5



F I G. 6



F I G. 7





US00D445111S

(12) United States Design Patent **(10) Patent No.:** **US D445,111 S**
Okamoto et al. **(45) Date of Patent:** **** Jul. 17, 2001**

(54) IC MEMORY CARD

(75) Inventors: Kosei Okamoto, Tokyo; Takashi Torii, Osaka, both of (JP); Yosi Pinto, Veradim (IL); Dan Auclair, Mountain View, CA (US); Yoram Cedar, Cupertino, CA (US); Bob Wallace, Sunnyvale, CA (US)

(73) Assignees: Kabushiki Kaisha Toshiba, Kawasaki; Matsushita Electric Industrial Co., Osaka, both of (JP); SanDisk Corporation, Sunnyvale, CA (US)

() Term:** 14 Years

(21) Appl. No.: 29/119,088

(22) Filed: Feb. 23, 2000

(30) Foreign Application Priority Data

Aug. 24, 1999 (JP) 11-22611

(51) LOC (7) Cl. **14-02**

(52) U.S. Cl. **D14/436**

(58) Field of Search D14/435-8, 478-80; 361/737, 736, 752, 686; 257/678-9; 40/124.01; 283/75-6, 901; 235/487-95, 441-3, 375; 174/52.1; 439/135, 140, 76.1

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- D. 375,941 * 11/1996 Kercklaan .
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SanDisk Memory Cards and Connectivity Solutions Brochure, dated Oct. 2000.

SanDisk Compact Flash™ and MultimediaCard Brochure, dated Oct. 2000.

SanDisk MultiMedia Card, Product/Applications Background Report, dated May 2000.

* cited by examiner

Primary Examiner—M. H. Tung

(74) Attorney, Agent, or Firm—Banner & Witcoff, Ltd.

(57) CLAIM

The ornamental design for IC memory card, as shown and described.

DESCRIPTION

FIG. 1 is a top, front and right side perspective view of IC memory card showing our new design,

FIG. 2 is a front elevational view thereof,

FIG. 3 is a right side elevational view thereof,

FIG. 4 is a left side elevational view thereof,

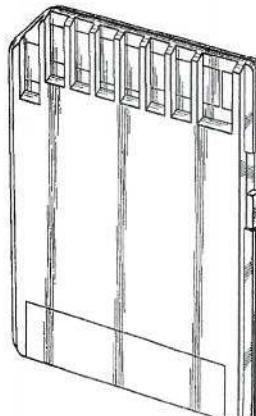
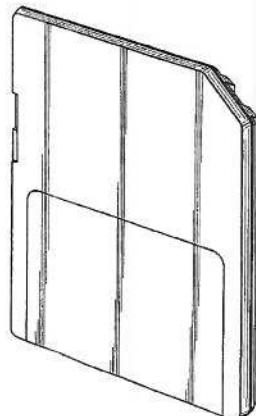
FIG. 5 is a top plan view thereof,

FIG. 6 is a bottom plan view thereof,

FIG. 7 is a rear elevational view thereof; and,

FIG. 8 is a top, rear and right side perspective view thereof.

1 Claim, 3 Drawing Sheets



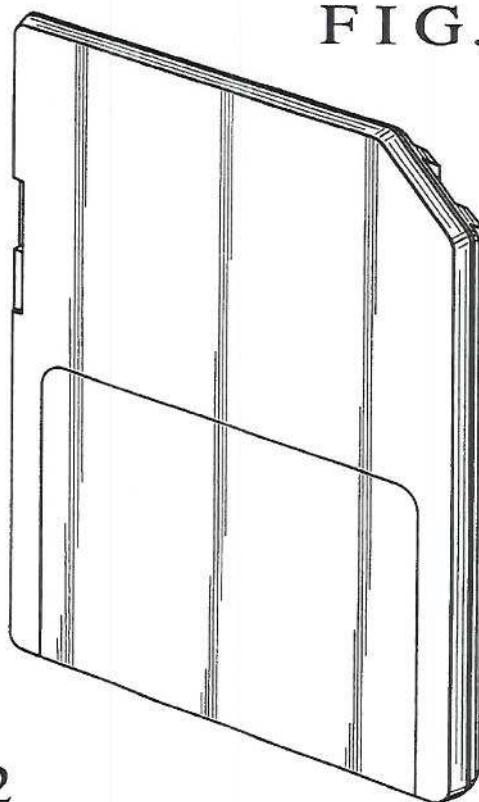
U.S. Patent

Jul. 17, 2001

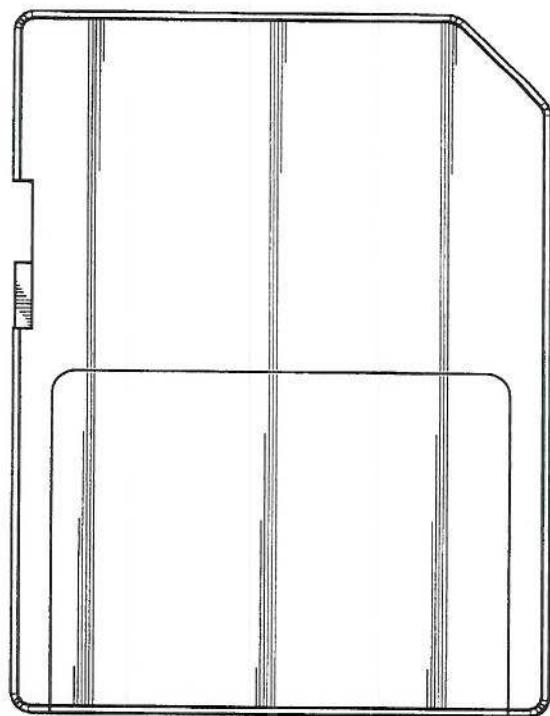
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F I G. 1



F I G. 2



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F I G. 3



F I G. 4



F I G. 5



F I G. 6

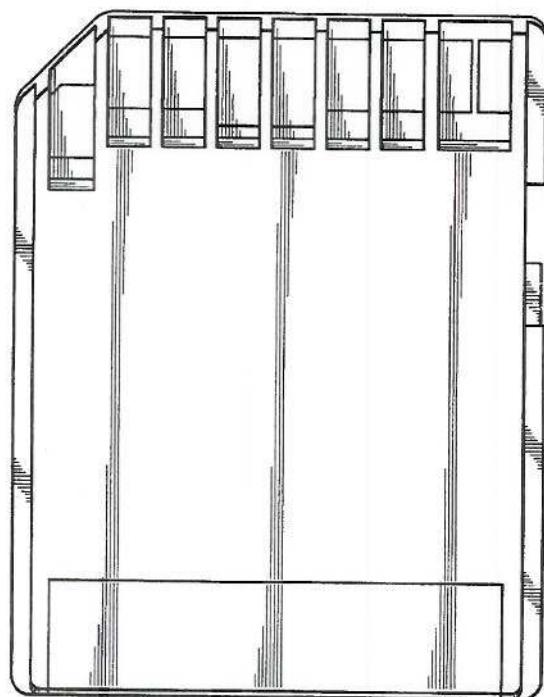


U.S. Patent

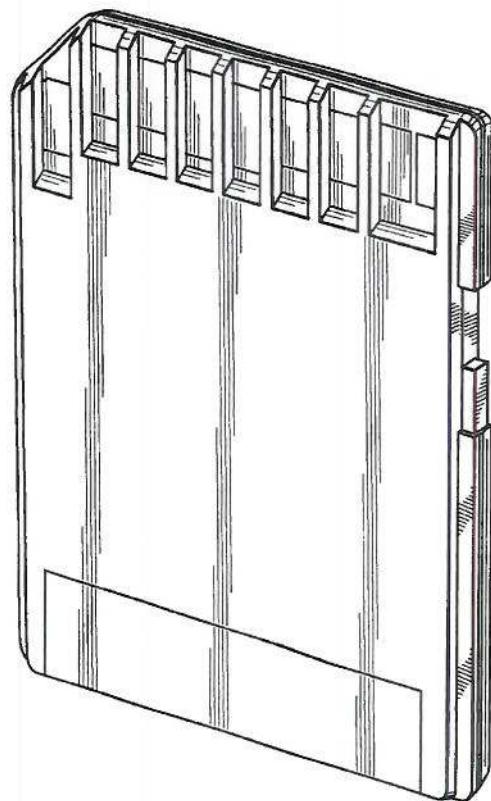
Jul. 17, 2001

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F I G . 7



F I G . 8

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : Des. 445,111 S
DATED : July 17, 2001
INVENTOR(S) : Kosei Okamoto et al.

Page 1 of 4

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page.

Item [30], **Foreign Application Priority Data**, change the Japanese Design Application "11-22611" to -- 11-22609 --.

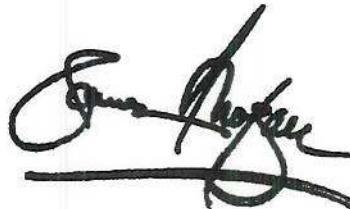
Drawings.

Substitute the attached drawings for the drawings issued with the patent.

Signed and Sealed this

Fifth Day of November, 2002

Attest:



Attesting Officer

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

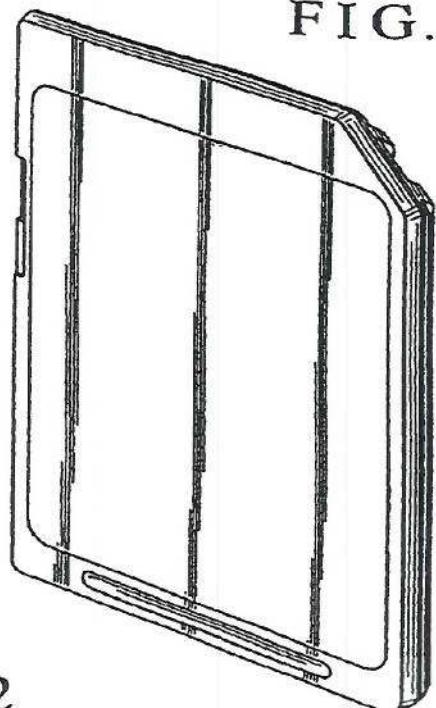
U.S. Patent

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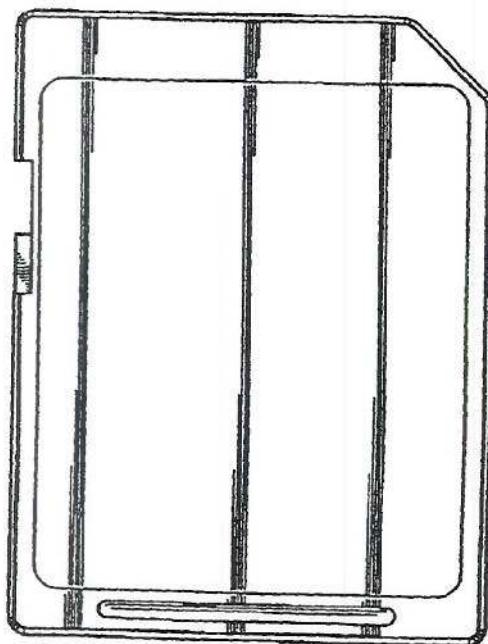
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F I G. 1



F I G. 2



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Des 445,111 S

F I G . 3



F I G . 4



F I G . 5



F I G . 6

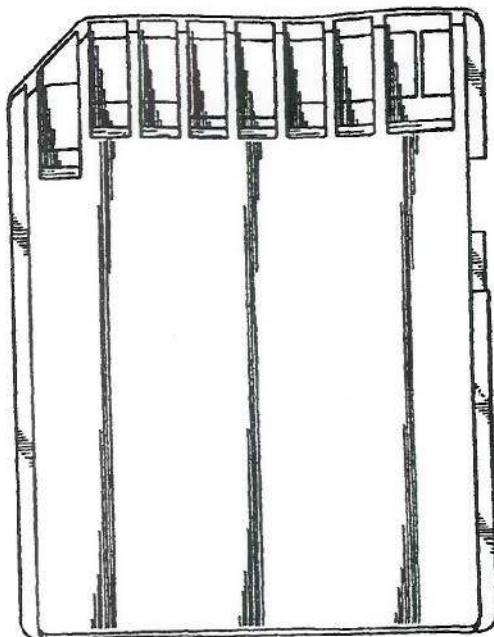


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F I G . 7

F I G . 8

